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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED

AUG 28 2009

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COMMISSIONERS

KRISTIN K. MAYES, CHAIRMAN
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE APPLICATION
OF LIVCO WATER COMPANY FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR
THE PROVISION OF WATER SERVICE
IN PORTIONS OF APACHE COUNTY,
ARIZONA

DOCKET NOS. W-02121A-06-0316
SW-02563A-06-0316

**NOTICE OF COMPLIANCE
REGARDING PHYSICAL
AVAILABILITY DETERMINATION**

AND

**MOTION FOR COMMISSION TO
EXTEND CERTIFICATES OF
CONVENIENCE AND NECESSITY**

IN THE MATTER OF THE APPLICATION
OF LIVCO SEWER COMPANY FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY FOR
THE PROVISION OF WATER SERVICE
IN PORTIONS OF APACHE COUNTY,
ARIZONA

Pursuant to Decision No. 69258, as amended by 71246, Livco Water Company and Livco Sewer Company (hereinafter collectively referred to as "Companies"), hereby file the letter from the Arizona Department of Water Resources ("ADWR") approving Livco Water Company's Application for a Physical Availability Determination ("PAD"). See Exhibit 1, Letter from Fabritz-Whitney to Kautz, p. 1 (Apr. 28, 2009) and moves the Commission to issue a final order approving the requested Certificates of Convenience and Necessity ("CC&N") extension.

1 **1.0 Compliance Filing**

2 In Decision No. 71246, the Commission Granted the Companies until December
3 31, 2009, to file a copy of the Developer's Letter of Adequate Water Supply or Physical
4 Availability Determination for the requested CC&N extension area. In the PAD
5 application approval letter, ADWR determined that a minimum of 1,057.72 acre-feet per
6 year of groundwater is physically available to meet the projected water demands. *See id.*
7 This available groundwater supply of 1,057.72 adequately meets the estimated water
8 demand attributable to projected development within Units 1 and 3, including the
9 Concho West Shores subdivision, which is the location of the proposed CC&N
10 expansion area. *See id.*; see also Exhibit 2. For the Commission's convenience, the
11 Company is also including the letter of adequate water supply for Concho Valley Unit
12 33 dated January 15, 1985. *See* Exhibit 3.

13
14 **2.0 Motion to Grant CC&N Extension**

15 With this filing, the Companies have met every condition set forth in Decision
16 No. 69258, as amended. Accordingly, the Companies move the Commission to issue a
17 final order authorizing the Companies to construct, maintain and operate facilities to
18 provide water and wastewater service to the public in the CC&N expansion areas fully
19 described in Exhibit A of Decision No. 69258.

20 RESPECTFULLY SUBMITTED this 28th day of August, 2009.

21 **MOYES SELLERS & SIMS**

22
23 

24

Steve Wene

25 ////

26 ////

27 ////

28 ////

1 Original and 15 copies of the foregoing
2 filed this 28th day of August, 2009, with:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington
6 Phoenix, Arizona 85007

7 Copies of the foregoing mailed
8 this 28th day of August, 2009 to:

9 Mr. Ernest G. Johnson, Director
10 Utilities Division
11 Arizona Corporation Commission
12 1200 West Washington Street
13 Phoenix, Arizona 85007

14 Ms. Janice M. Alward, Chief Counsel
15 Legal Division
16 Arizona Corporation Commission
17 1200 West Washington Street
18 Phoenix, Arizona 85007

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Exhibit 1

JANICE K. BREWER

Governor



HERBERT R. GUENTHER

Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
(602) 771-8500

April 28, 2009

Rick Kautz, President
Livco Water Company
PO Box 659
Concho, AZ 85924

**RE: Livco Unit 1 and Unit 3 North, Apache County, Arizona
Application for a Physical Availability Determination
ADWR #52-700520.0000**

Dear Mr. Kautz:

The Department has completed its review of the application for a Physical Availability Determination for Livco Unit 1 and Unit 3 North. The Department received the application on May 8, 2008. The study area consists of Township 12 North, Range 26 East, Sections 7, 18 & 29, GSR B&M in Apache County, Arizona.

In accordance with A.A.C. R12-15-702(C), the Department determined that a minimum of **1057.72 acre-feet per year** of groundwater is physically available for 100 years under A.A.C. R12-15-716(B) for adequate water supply purposes in the study area. With regard to water quality for the purpose of A.A.C. R12-15-719(A), the provider you select must be in compliance with the Arizona Department of Environmental Quality drinking water compliance unit. With regard to water quality for the purpose of A.A.C. R12-15-719(B) the study area is not located within one mile of any known WQARF or Superfund site.

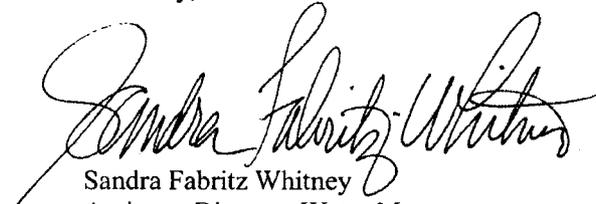
As with all determinations of physical availability issued by the Department, if the Department finds that the water supply is not available because the assumptions and information used in determining the physical availability under the current criteria prove incorrect, the Department will modify the availability of groundwater accordingly. Changes in the number or locations of wells may impact applicability of this determination to future applications for determinations of adequate water supply.

The results of the Department's review fulfill the requirements of R12-15-703(B) and may be cited in applications for determinations of adequate water supply. These applications have certain additional requirements based on the adequate water supply criteria referenced in A.R.S. § 45-108 and A.A.C. R12-15-701 et seq. For further information on these requirements, please contact the Office of Assured and Adequate Water Supply at (602) 771-8599.

Livco Unit 1 & Unit 3 North PAD
April 28, 2009
Pg. 2 of 2

If you have any questions regarding this Physical Availability Determination, please contact Rick Obenshain at (602) 771-8599.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Fabritz Whitney". The signature is fluid and cursive, with the first name being the most prominent.

Sandra Fabritz Whitney
Assistant Director, Water Management

cc: Steve Wene, Moyes, Sellers & Sims

Scott Journell, Southwest Ground-water Consultants, Inc.

Steve Olea
Arizona Corporation Commission

Linda Taunt
Arizona Department of Environmental Quality

Exhibit 2



Southwest Ground-water Consultants, Inc.

August 18, 2009

Mr. Steve Wene
Moyes Sellers & Sims
1850 N. Central Ave. Ste. 1100
Phoenix, AZ 85004

**SUBJECT: CONCHO WEST SHORE LOCATION
HYDROLOGIC STUDY REPORT, UNITS ONE AND THREE NORTH,
LIVCO WATER COMPANY, CONCHO, ARIZONA**

Dear Mr. Wene:

The purpose of this letter is to make it clear that the physical availability determination ("PAD") study area described as "Livco Unit 1 and Unit 3 North" by the Arizona Department of Water Resources ("ADWR") and considered in Southwest Ground-water Consultants, Inc.'s Hydrologic Study Report, Unit One and Unit Three North, Livco Water Company dated May 6, 2008 ("Hydrologic Report"), includes the areas described in the Arizona Corporation Commission ("Commission") proceedings as Units One, Three, and Concho West.

The Hydrologic Report was intended to address the proposed CC&N expansion area described to ADWR as Unit One and Unit Three North. In this study, Unit Three North is the same as Unit Three. Concho West Shore was included as part of Unit One. Unit One consists of Concho West Shore as well as other lands. Figure 1 is attached to show the areas included in Unit One.

The water demand for Unit One, including Concho West Shore, together with the water demand for Unit Three North is estimated at 309.46 acre-feet per year. The amount determined by the PAD is 1,057.72 acre-feet per year. Therefore, there is sufficient water available to meet the water demands in Units One, Three, and Concho West.

Thank you for the opportunity to respond to your question. Please contact us if we may provide additional information regarding the study.

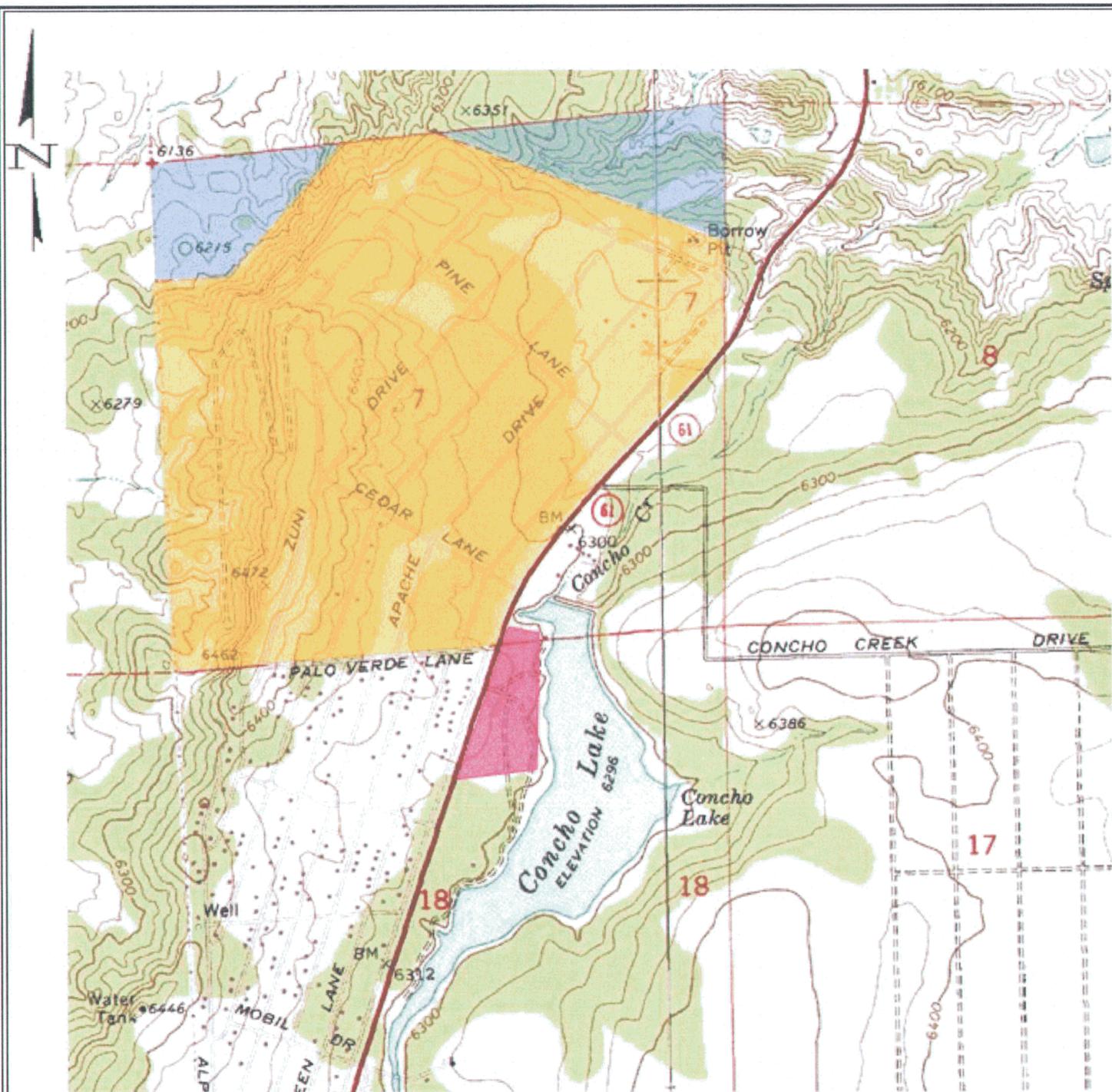
Sincerely,

Southwest Ground-water Consultants Inc.

A handwritten signature in cursive script that reads "Scot Journell".

Scot Journell, P.E.
Project Manager

cc: SGC File B.1487



EXPLANATION

Unit One, as defined in the Hydrologic Study Report, includes the three shaded areas.

-  Big Six Ranch Sites
Unit 1A,
Lots 5, 6, 7, 9 and 20
-  Concho West Shore
-  Concho Valley Unit 1

(approximate locations)

Southwest Ground-water
 **Consultants, Inc.**

August 17, 2009 Project B.1487

UNIT ONE SUBDIVISIONS
 As defined in the Hydrologic Study Report
 Dated May 6, 2008
 Livco Water Company,
 Concho, AZ

Figure
1

Exhibit 3

State of Arizona

DEPARTMENT OF WATER RESOURCES

99 E. Virginia Avenue, Phoenix, Arizona 85004



BRUCE BABBITT, Governor
WESLEY E. STEINER, Director

January 15, 1985

Mr. Roy Tanney
Chief of Subdivisions
Real Estate Department
2005 North Central Avenue, 7th Floor
Phoenix, Arizona 85004

Re: Concho Valley Unit 33,
Apache County

Dear Mr. Tanney:

Pursuant to A.R.S. 45-108, Shreeve & Associates, Inc. has provided the Department of Water Resources with information on the water supply for the referenced subdivision in Section 33, T12N, R26E, G&S R B&M.

Water for domestic use will be provided to each of the 82 lots in the subdivision by Livco Water Company from a well within its franchised area.

Adequacy of the water supply was reviewed by the Department with regard to quantity, quality and dependability. The subdivision is located about 25 miles northeast of the City of Show Low. There are two aquifers underlying the property. The subdivision's proposed supply will initially be obtained from the upper volcanic aquifer. The depth to water in the existing supply well is about 50 feet below land surface. This well is capable of producing sufficient quantities of acceptable quality water for the proposed use. The lower aquifer in the area is the regional Coconino Sandstone Formation, and this aquifer could provide additional water supplies if necessary. The depth to water in the Coconino aquifer is about 550 feet below land surface and there has been no noticeable decline of the water level over the past several years. Available information indicates the area receives substantial amounts of annual recharge which should be sufficient to supply the subdivision's projected demands for a sufficiently long period of time. The Department of Water

Think Conservation!

Office of Director 255-1554

Administration 255-1550, Water Resources and Flood Control Planning 255-1566, Dam Safety 255-1541,

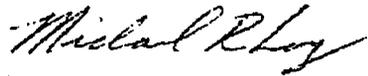
Flood Warning Office 255-1548, Water Rights Administration 255-1581, Hydrology 255-1585

Mr. Roy Tanney
January 15, 1985
Page Two

Resources, therefore, finds the water supply to be adequate to meet the subdivision's projected needs. Any change to the subdivision or its water supply plans may invalidate this decision.

This letter constitutes the Department's report on the subdivision water supply and is being forwarded to your office as required by A.R.S. 45-108. This law requires the developer to hold the recordation of the above subdivision's plats until receipt of the Department's report on the subdivision's water supply. By copy of this report, the Apache County Recorder is being officially notified of the developer's compliance with the law.

Sincerely,



Michael R. Long
Chief Hydrologist

dg

cc: Henry H. Leigh,
Lake Investment Company
Shreeve & Associates, Inc.
Livco Water Company
Mary B. Chavez,
Apache County Recorder
Monty Stansbury,
Apache County Planning/Zoning
Wesley Shonerd,
Arizona Department of Health Services